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11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 JONATHAN CORRELL, on behalf of
14 himself and all others similarly situated,

15 Plaintiff,

16 v.

17 AMAZON.COM, INC., and DOES 1-10,

18 Defendant.
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Case No. 3:21-cv-01833-BTM-MDD

**PLAINTIFF'S OPPOSITION TO
DEFENDANT'S MOTION TO
DISMISS COMPLAINT
PURSUANT TO FEDERAL RULES
OF CIVIL PROCEDURE 12(b)(1)
and 12(b)(6).**

Hearing Date: June 3, 2022

Time: 11:00 a.m.

Judge: Hon. Barry Ted Moskowitz

Courtroom: 15B

PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS

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A. PLAINTIFF HAS STANDING UNDER ARTICLE III OF THE U.S. CONSTITUTION BECAUSE PLAINTIFF HAS INDEED SUFFERED AN INJURY IN FACT, CONSISTENT WITH THE NINTH CIRCUIT’S ON-POINT RULING IN <i>WHITE I</i> ABOUT A SIMILARLY-SITUATED PLAINTIFF ALLEGING AN UNRUH ACT CLAIM AGAINST AN ONLINE BUSINESS AFTER VISITING THE WEBSITE AND ENCOUNTERING DISCRIMINATORY TERMS OR CONDITIONS, THEN LEAVING THE WEBSITE WITHOUT SUBSCRIBING TO THE BUSINESS’S SERVICES.....	7
B. PLAINTIFF HAS STANDING TO SUE UNDER CALIFORNIA’S UNRUH CIVIL RIGHTS ACT AND CIVIL CODE SECTION 51.5 PURSUANT TO THE CALIFORNIA SUPREME COURT’S ON-POINT RULING IN <i>WHITE II</i> , BECAUSE THE COMPLAINT ALLEGES PLAINTIFF VISITED AMAZON’S WEBSITE WITH THE INTENT TO USE AMAZON’S SERVICES AND ENCOUNTERED TERMS OR CONDITIONS THAT EXCLUDED PLAINTIFF FROM FULL AND EQUAL ACCESS TO AMAZON’S SERVICES.....	10
C. PLAINTIFF STATED A CLAIM UNDER THE UNRUH ACT AND CIVIL CODE SECTION 51.5 BECAUSE:	
(1) MR. CORRELL HAS ALLEGED FACTS THAT AMAZON’S DISCRIMINATORY SERVICES ARE ARBITRARY, UNREASONABLE, AND INVIDIOUS.....	12

1	(2) THERE ARE NO STATE OR FEDERAL STATUTORY OR	
2	LEGISLATIVE ENACTMENTS EVIDENCING A STRONG	
3	PUBLIC POLICY IN FAVOR OF A BUSINESS	
4	CATEGORICALLY DENYING ITS SERVICES TO AN	
5	INDIVIDUAL OR ANOTHER BUSINESS BASED ON THE	
6	INDIVIDUAL OR OTHER BUSINESS'S OWNER'S RACE,	
7	SEX, OR SEXUAL ORIENTATION.....	14
8	(3) THERE ARE MANY STATUTORY AND LEGISLATIVE	
9	ENACTMENTS EVIDENCING A STRONG PUBLIC POLICY	
10	AGAINST DISCRIMINATING BASED ON RACE, SEX, AND	
11	SEXUAL ORIENTATION, AS WELL A WEALTH OF FEDERAL	
12	AND CALIFORNIA CASE LAW REINFORCING THE	
13	COMPELLING PUBLIC POLICIES EMBODIED IN	
14	ANTIDISCRIMINATION LAWS.....	18
15	(4) THERE IS NO EVIDENCE IN THE COMPLAINT, OR ANY THAT	
16	HAS BEEN JUDICIALLY NOTICED, THAT AMAZON'S RACE,	
17	SEX, AND SEXUAL ORIENTATION-BASED SERVICES	
18	"FOSTER" DIVERSITY; ON THE CONTRARY, THESE	
19	EXCLUSIVE SERVICES ACTUALLY DISCOURAGE AND	
20	HINDER DIVERSITY BY DISCRIMINATING AGAINST MANY	
21	OF THE GROUPS AMAZON OSTENSIBLY FAVORS.....	24
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